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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,523	08/29/2001	Yair Oren	20568-68756	7992

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SHREWSBURY, NJ 07702

EXAMINER

TRAN, DZUNG D

ART UNIT	PAPER NUMBER
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2613

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/914,523

Applicant(s)

OREN ET AL.

Examiner

Dzung D. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8 is/are allowed.
- 6) ☒ Claim(s) 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Specification

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 23 is rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The switches is critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Claim 23 claimed "when the first carrier is not capable of transmitting first information over the fiber, the first information is modulated on the second carrier for transmission over the fiber". Without the switches and their connection as disclosed in the Specification and drawing, it is not enabled one of skill in the art how, the first information is modulated on the second carrier for transmission over the fiber when the first carrier is not capable of transmitting first information over the fiber.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sutter et al. U.S. Patent no. 5,760,934 in view of Badr et al. U.S. Patent no. 6,567,194.

Regarding claim 23, Sutter discloses in figure 2, a method of a closed loop optical fiber for carrying information modulated on at least two optical carriers (e.g., information is modulated with wavelength λ_1 and wavelength λ_4 , see col. 6, lines 24-46), a first one of the carriers having a first wavelength λ_4 and a second one of the carriers having a second wavelength λ_1 , at least two nodes (e.g., N1, N2) at a first one of which first information modulated on the first carrier λ_4 and second information modulated on the second carrier λ_1 is to be recovered and transmitted, the first node N1 comprising a first demultiplexer X4N for demultiplexing the first carrier λ_4 from the fiber, a second demultiplexer X1S for demultiplexing the second carrier λ_1 from the fiber, a first multiplexer I1S for multiplexing the first carrier λ_4 on the fiber, a second multiplexer I1N for multiplexing the second carrier λ_1 on the fiber, and apparatus ADM (e.g., ME1) for receiving and transmitting first and second information (λ_1 , , λ_4) the apparatus ME1 for receiving and transmitting first and second information consisting essentially of a first receiver RN for demodulating first information and a first transmitter EN for modulating first information on the first carrier λ_4 before the first carrier λ_4 is

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placed on the fiber by the first multiplexer I1S, a second receiver RS for demodulating second information and a second transmitter EN for modulating second information on the second carrier λ_1 before the second carrier is placed on the fiber by the second multiplexer I1N.

Sutter further discloses the nodes with ADM are provided with a 1+1 line MSP.

Badr discloses an optical communication network comprises switch node for switching the information to the desired fiber and the system can be figured to carry lower priority traffic on the protection fibers or wavelengths during normal operation to increase the overall normal operating capacity of the system (see Figure 1, abstract). It would have been obvious to an artisan at the time of the invention was made to include the teaching of Falkenstein in the system of Sutter. At the time of the invention was made, one of ordinary skill in the art would have been motivated to do that in order to switch the information from one carrier (e.g., for example first carrier not capable of transmitting the first carrier) over another carrier in the same fiber. Thus, it enhances the optical system reliability.

6. Claims 1-8 are allowed.

Response to Arguments

7. Applicant's arguments with respect to claim 23 have been considered but are moot in view of the new ground(s) of rejection.

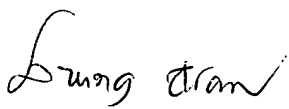
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dzung D Tran whose telephone number is (571) 272-3025. The examiner can normally be reached on 9:00 AM - 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dzung Tran
01/22/2006


DZUNG TRAN
PRIMARY PATENT EXAMINER